

OPTION B:

***Amend regulations 18707.1
and 18707.9 (Step 7)***

and/or

Add regulation 18707.10 (Step 7)

ENCLOSURE 2:

Regulations 18707.1, 18707.10 and 18707.9

STEP 7 - "PUBLIC GENERALLY"

Amend

18707.1. Public Generally. General Rule.

(a) Except as provided in Government Code sections 87102.6 and 87103.5, the material financial effect of a governmental decision on a public official's economic interests is indistinguishable from its effect on the public generally if both subdivisions (b)(1) and (b)(2) of this regulation apply.

(b) Significant Segments and Indistinguishable Effects.

(1) Significant Segment. The governmental decision will affect a "significant segment" of the public generally if any of the following are affected as set forth below:

(A) Individuals. For decisions that affect the personal expenses, income, assets, or liabilities of a public official or a member of his or her immediate family, or that affect an individual who is a source of income or a source of gifts to a public official, the decision also affects:

(i) Ten percent or more of the population in the jurisdiction of the official's agency or the district the official represents; or

(ii) 5,000 individuals who are residents of the jurisdiction.

(B) Real Property. For decisions that affect a public official's ~~real property interest~~ interest in real property, the decision also affects:

(i) Ten percent or more of all property owners, ~~or all homeowners~~ or persons having a leasehold interest in the jurisdiction of the official's agency or the district the official represents; or

(ii) 5,000 property owners, ~~or homeowners~~ or persons having a leasehold interest in the jurisdiction of the official's agency.

1 The public official may count separately each person designated on a title or lease
2 agreement as a property owner, homeowner or person having a leasehold interest.

3 However, where a person has an ownership or leasehold interest in multiple parcels, that
4 person will count as only one property owner, homeowner, or person having a leasehold
5 interest.

6 (C) Business Entities. For decisions that affect a business entity in which a public official
7 has an economic interest, the decision also affects either 2,000 or twenty-five percent of all
8 business entities in the jurisdiction or the district the official represents, so long as the effect is on
9 persons composed of more than a single industry, trade, or profession. For purposes of this
10 subdivision, a not for profit entity other than a governmental entity is treated as a business entity.

11 (D) Governmental Entities. For decisions that affect a federal, state or local government
12 entity in which the public official has an economic interest, the decision will affect all members
13 of the public under the jurisdiction of that governmental entity.

14 (E) Exceptional Circumstances. The decision will affect a segment of the population which
15 does not meet any of the standards in subdivisions (b)(1)(A) through (b)(1)(D), however, due to
16 exceptional circumstances regarding the decision, it is determined such segment constitutes a
17 significant segment of the public generally.

18 (2) Substantially the Same Manner: The governmental decision will financially affect a
19 public official's economic interest in substantially the same manner as it will affect the
20 significant segment identified in subdivision (b)(1) of this regulation. The financial effect need
21 not be identical to be considered financially affected in substantially the same manner.

1 **Add**
2 **18707.10. General Plan Decisions: Economic Interest in Real Property [or Business**
3 **Entity]**

4
5 (a) The material financial effect of a governmental decision to adopt or amend a
6 general plan on a public official's interest in real property or on a business entity in which
7 a public official has an economic interest is indistinguishable from the decision's effect
8 on the public generally if the requirements of subdivisions (a) – (e) of this regulation are
9 met.

10 (b) The governmental decision is one of the following:

11 (1) The decision is to adopt or amend the {Dec 2} [land use,] circulation,
12 housing, conservation, open-space, noise, or safety element of a general plan; or

13 (2) The decision is to adopt or amend a general plan but only identifies planning
14 objectives or is otherwise exclusively one of policy and does not concern an identifiable
15 parcel or development project, or the agency's prior, concurrent or subsequent approval
16 of a specific plan.

17 (c) The decision applies to all persons with interests in real property in the entire
18 jurisdiction of the public official's agency or district the public official represents.

19 (d) Significant Segment. The governmental decision also affects a "significant
20 segment" of the public generally as identified in Title 2, Cal. Code of Regulations,
21 section 18707.1(b)(1)(B) with respect to an public official's interest in real property and
22 section 18707.1(b)(1)(C) with respect to a business entity in which a public official has
23 an economic interest.

24 (e) Substantially the Same Manner. The governmental decision will financially
25 affect the public official's economic interest in real property and the significant segment

1 in substantially the same manner as described in subdivision (e)(1) below. Subdivision
2 (e)(1) may also be applied in cases where the decision solely affects real property which
3 is the asset of the business entity in which the official has an economic interest.

4 **{Dec 3}** [Consideration shall be given to changes to the property boundaries, zoning
5 designations, current or potential use, development or income producing potential, size,
6 current or projected value of the real property and to the characteristics of the
7 neighborhood impacting the traffic, view, privacy, intensity of use, noise level and air
8 emissions as a result of the decision.]

9 **{Dec 4, Option 1}**

10 (1) The decision will affect the public official's real property, or the real property
11 which is an asset of the business in which the official has an economic interest, in
12 substantially the same manner as it will affect the significant segment if Title 2, Cal.
13 Code of Regulations section 18707.10(e)(1)(A), (B), or (C) below are met:

14 (A) Real property of the significant segment is located entirely within 500 feet of
15 the public official's real property; or

16 (B) The decision is implemented on a proportional basis. For purposes of this
17 subdivision, a decision will be considered to be implemented on a proportional basis if
18 the financial effect of the decision on the official's real property does not vary, or is not
19 projected to vary, in any twelve-month period from the average financial effect on real
20 property of the significant segment by {Dec 4a}[more than 10/15/20%] {Dec 4b} [or by
21 \$10,000/\$25,000/50,000, whichever is less]; or

22 (C) The decision is implemented on a proportional basis based solely on property
23 size, and the official's real property does not vary in size by more than {Dec 4c}

1 [10/15/20%] from the {Dec 4d}[average/mean/ median/modal] size of real property of the
2 significant segment.

3 **{Dec 4, Option 2}**

4 (1) The decision will affect the public official's real property, or the real property
5 which is an asset of the business in which the official has an economic interest, in
6 substantially the same manner as it will affect the significant segment if all of the
7 following factors are met:

8 (i) There are at least {Dec 4c} [100/500/1,000] properties under separate
9 ownership which are within a {Dec 4d} [2,500 feet/1 mile/2 mile] radius from the public
10 official's real property;

11 (ii) If zoning designations will be modified by the decision, the zoning
12 designation of the public official's real property is the same as the zoning designations of
13 the real property of the significant segment;

14 (iii) The current uses or the potential uses of the official's real property and real
15 property of the significant segment will be modified in the same manner by the decision;

16 (iv) The development potential, income producing potential, or value of the
17 official's real property will not vary by more than {Dec 4e} [5/10/15]% from the average
18 development potential, income producing potential or value of real property of the
19 significant segment as a result of the decision; and

20 (v) The size of the official's real property and the average size of real property of
21 the significant segment does not vary by more than one acre in size.

22 (f) Definitions. For purposes of this regulation, apply the following:

1 (1) A governmental decision to “adopt” a general plan is one that, in the manner
2 described in Government Code § 65301, grants initial approval to, substitutes for, or
3 replaces a general plan in its entirety, or grants initial approval to any component of a
4 general plan, including elements, a statement of development policies, and diagrams and
5 texts setting forth objectives, principles, standards, and plan proposals, as described in
6 Government Code §§ 65302 and 65303;

7 (2) A governmental decision to “amend” a general plan is one that substitutes or
8 replaces in part, adds to, takes away from, or otherwise modifies an existing general plan,
9 general plan element, or other component of a general plan, including elements, a
10 statement of development policies, and diagrams and texts setting forth objectives,
11 principles, standards, and plan proposals, as described in Government Code §§ 65302 and
12 65303.

13 NOTE: Authority cited: Section 83112, Government code.
14 Reference: Section 87103, Government Code.

1 **Amend**

2 **18707.9 Public Generally – Residential Properties.**

3
4 ~~–(a) The effect of a governmental decision on a public official’s real property interests is~~
5 ~~indistinguishable from the effect on the public generally if 5,000 or ten percent or more~~
6 ~~of all property owners or all homeowners in the jurisdiction of the official’s agency or the~~
7 ~~district the official represents are affected by the decision and the official owns three or~~
8 ~~fewer residential property units. A public official’s principal residence, as defined in~~
9 ~~Title 2, California Code of Regulations, section 18707.3(b), does not count as a unit for~~
10 ~~purposes of this subdivision.~~

11 *Subdivision (a) above rewritten as (a)(1)-(2):*

12 (a) The effect of a governmental decision on any of a public official’s real property is
13 indistinguishable from the effect on the public generally if all of the following apply:

14 (1) 5,000 or ten percent or more of all property owners or homeowners in the
15 jurisdiction of the official’s agency or the district the official represents are affected by
16 the decision;

17 (2) The official owns three or fewer non-owner occupied residential property units or
18 four or fewer residential property units including the official’s principal residence; and

19 (3) The decision is to establish, eliminate, amend, or otherwise affect the respective
20 rights or liabilities of tenants and owners of residential property pursuant to a resolution,
21 rule, ordinance, or other law of general application.

22 (b) The effect of a governmental decision on any of a public official’s economic
23 interest (including real property and business interests) is indistinguishable from the
24 effect on the public generally if all of the following apply:

1 (1) The decision is to establish, eliminate, amend, or otherwise affect the respective rights or
2 liabilities of tenants and owners of residential property pursuant to a resolution, rule, ordinance, or
3 other law of general application;

4 (2) No economic interest of the public official other than one created by ownership of
5 residential real property, or the rental of that property, is analyzed under this regulation;

6 (3) The official's economic interests are not directly involved in the decision (as provided in Title
7 2, California Code of Regulations, sections 18704.1, 18704.2(a), and 18705.1);

8 (4) The decision affects at least ten percent of the residential property units in the jurisdiction of
9 the public official or district he or she represents; and

10 (5) The decision will affect the official's economic interests in substantially the same
11 manner as it will affect other residential property owners or owners of residential rental
12 property. A public official will be affected in substantially the same manner for purposes
13 of this subdivision if the decision will be applied on a proportional or "across-the-board"
14 basis on the official's economic interests as on other residential property owners or other
15 owners of residential rental property affected by the decision.

16 (c) Principal Residence. The "principal residence" of a public official means the
17 official's domicile in which the official's habitation is fixed, where the official has the
18 intention of remaining, and to which the official, whenever he or she is absent, has the
19 intention of returning. At any given time, a public official may have only one principal
20 residence. With respect to units in condominium complexes, planned unit developments,
21 and similar residences, "principal residence" means the unit or space in which the public
22 official has a separate ownership interest. "Principal residence" does not include a
23 common area, which must be analyzed separately.